

REMARKS

Reconsideration is respectfully requested. Claims 1-12 and 22-41 are pending. By this amendment, claims 1-3, 5, 6, 8, 10, 12, 22-24, 26, 27, 29-34, 36, 37, and 39-41 have been amended.

Telephone Interview

Applicants thank the Examiner and his Supervisor for the telephone interview wherein the current office action was discussed. The discussion was very helpful in identify specific issues with the claims in the application and in finding solutions to those issues. The present amendment and remarks are submitted pursuant to those discussions.

Claim Objections

The Examiner objects to claims 1, 22, and 33 for informality of the claims due to the recitation "modified to produce **that** protein." As per the Examiner's suggestion, Applicants have amended the claims to correct the informalities. In light of the above, Applicants respectfully request that the objections to the claims be withdrawn.

Rejections - 35 U.S.C. § 112, First Paragraph

Claims 2, 23-31, and 33 have been rejected as allegedly containing subject matter that was not sufficiently enabled in the specification.

The Examiner has stated that the specification does enable one of ordinary skill in the art to practice the claimed inventions. The Examiner has asserted that the claims encompass use of different challenging and observing steps for the first and second extracts and that one of ordinary skill in the art would need to perform an undue amount of experimentation to correlate different allergenicity tests.

Applicants have amended claims 2, 23, and 33 as discussed during the telephone interview. The claims now recite “the first and the second extract” as suggested by the Examiner.

In view of the above, Applicants respectfully request that the rejections to claims 2, 23-31, and 33 under 35 U.S.C. § 112, first paragraph be withdrawn.

Rejections - 35 U.S.C. § 112, Second Paragraph

Claims 3, 24, and 34 have been rejected as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner has stated that “the extract” is not defined by the claims because the independent claims define two extracts.

The rejection is avoided by the amendments to the claims. Recitation of “the extract” in claims 3, 24, and 34 has been replaced with “the second extract” as discussed during the telephone interview.

In light of the amendments, Applicant submits that the claims meet the requirements of 35 U.S.C. § 112, Second Paragraph and requests that the rejection of the claims be withdrawn.

Claims 6, 27, and 37 have been rejected as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner has stated that the recitation, “substantially no allergic reaction is observed,” is indefinite because the metes and bounds of the term are not defined by the disclosure. In the telephone interview, the Examiner indicated that this claim language was acceptable.

Claims 1-8, 10, 12, and 22-41 have been rejected as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner has further stated that the recitation, "a second extract containing substantially the same protein as the first extract," is indefinite because the metes and bounds of the term are not defined by the disclosure. In the telephone interview, the Examiner indicated that this claim language was acceptable.

In light of the above amendments and remarks, Applicant submits that the claims meet the requirements of 35 U.S.C. § 112, Second Paragraph and requests that the rejection of the claims be withdrawn.

Further Claim Amendments

The claims have been amended to clarify issues raised during the phone interview. Claims 1, 22, and 32 have been amended to spell out each step and make clear that the dog does not need to be sensitized with the second extract prior to challenging with the second extract. Support for this may be found throughout the specification. An example is on page 13, lines 6-10. "In one embodiment, the test extract described above is used initially to sensitize the dog." Furthermore, claims 5, 26, and 36 have been amended to reflect the fact that the dog may be sensitized with the second extract. Support for this may be found throughout the specification. An example is on page 12, lines 23-33. "There are three types of extracts which can be used for sensitizing the dog."

Finally, support for sensitization by injection as used in claim 22 may be found throughout the specification. An example may be found on page 12, lines 20-22. Furthermore, Example 2, found on page 19, lines 14-30, discloses such an injection used to sensitize the dog, where the injection was a subcutaneous injection. Sensitizing animals by injection is routine in the art. Therefore, one of ordinary skill in the art is familiar with sensitizing dogs by injection and would know where and how to inject a dog in order to sensitize it.

CONCLUSION

Applicant has amended the claims to address many of the issues raised by the Examiner. In light of these amendments and remarks, Applicant submits that all of the claims are in condition for allowance.

Should the Examiner have any remaining issues that remain to be resolved, the Examiner is encouraged to contact the undersigned by telephone.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 416272001500.

Respectfully submitted,

Dated: February 21, 2003

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